HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

TRANSFER C.M.P.No.146 of 2017

ORDER:

This petition is filed under Section 24 C.P.C., to withdraw H.M.O.P.No.123 of 2016 from the file of the Principal Senior Civil Judge Court, at Tenali and transfer the same to the file of Principal Senior Civil Judge Court, Khammam.

2. In spite of service of notice, the respondent did not choose to appear and oppose the petition; hence, this Court is inclined to pass orders on merits. Heard the learned counsel for the petitioner.

3. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 12.05.2013 at Vykunthapuram, Tenali, Guntur District, as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. For one reason or the other, disputes arose between the petitioner and the respondent; therefore, the petitioner has been residing at her parents' house in Yellandu. A perusal of the record reveals that the petitioner filed M.C.No.52 of 2016 on the file of Judicial Magistrate of First Class Court, Yellandu against the respondent under Section 125 Cr.P.C. The petitioner also filed D.V.C.No.773 of 2015 on the file of the Judicial Magistrate of First Class Court against the respondent under Section 12 of D.V.C. Act. Basing on the complaint lodged by the petitioner, the Station House Officer, Yellandu, registered a case in Crime No.274 of 2016 against the respondent and others for the offence punishable under Section 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act. While things stood thus, the respondent filed H.M.O.P.No.123 of 2016 on the file of the Principal Senior Civil Judge Court, Tenali, under Section 13(1)(ia)(ib) of Hindu Marriage Act, against the petitioner for

dissolution of marriage between them. It is the case of the petitioner that she is facing much difficulty to travel from Yellandu to Tenali in order to prosecute the H.M.O.P.No.123 of 2016. Invariably, the respondent has to attend the Judicial Magistrate of First Class Court, Yellandu, in view of pendency of D.V.C.No.773 of 2015 and M.C.No.52 of 2016.

4. While deciding the petitions of this nature, the Court has to take into consideration the inconvenience likely to be caused to the parties to the proceedings, more particularly, the wife. As per the principle enunciated in **V.Sailaja v V.Koteswara Rao**[1], **Rachna Kanodia v. Anuk Kanodia**[2] and **Sumita Singh v. Kumar Sanjay**[3], the paramount consideration, in transfer of matrimonial cases, is the convenience of the wife and children.

5. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, this Court is of the considered view that the petitioner deserves the relief sought for.

6. Accordingly, the Transfer Civil Miscellaneous Petition is allowed. H.M.O.P.No.123 of 2016 is withdrawn from the file of the Principal Senior Civil Judge Court, Tenali and transferred to the file of Principal Senior Civil Judge Court, Kothagudem, Khammam District, for disposal in accordance with law. As a sequel, miscellaneous petitions, pending if any shall stand closed.

T.SUNIL CHOWDARY, J

Dt:12.10.2018
Rns

[1] AIR 2003 AP 178 = 2003 (1) ALD 673 = 2003 (1) APLJ 441
[2] 2001(7) Supreme 96
[3] AIR 2002 SC 396